

09 CIV 2549

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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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SIMON & SCHUSTER, a division of CBS
CORPORATION

Plaintiff,

- against -

M/V APL PERU her engines, boilers, tackle, etc.;
MEADOWS WYE CONTAINER GROUPAGE;
HLL ATLANTIC SCHIFFAHRT GmbH & CO KG;
HANSEATIC LLOYD SCHIFFAHRT GmbH & CO
KG and HYUNDAI MERCHANT MARINE CO.
LTD.

Defendants.
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09 Civ.

COMPLAINT

Plaintiff, by its attorneys, CASEY & BARNETT, LLC, for its Complaint, alleges upon information and belief, as follows:

1. This is an admiralty and maritime claim within the meaning of Rule 9(h) of the Federal Rules of Civil Procedure. Jurisdiction is predicated upon 28 U.S.C. §1333.
2. Plaintiff, Simon & Schuster, a division of CBS Corporation, is a domestic corporation with a place of business located at 51 West 52nd Street, New York, New York 10019, and is the cargo receiver and/or consignee of a consignment of printed books laden on board the M/V APL PERU, as more fully described below.

3. Defendant, MEADOWS WYE CONTAINER GROUPAGE, (hereinafter “Meadows Wye”) is a corporation or other business entity with a place of business located at 2506 Forest Avenue, Staten Island, New York 10303, was and still is doing business in this jurisdiction directly and/or through an agent and was at all times acting in the capacity of a non vessel owning common carrier of goods by water.

4. Defendant, HLL ATLANTIC SCHIFFAHRT GmbH & CO KG, (hereinafter “Atlantic”) is a corporation or other business entity with a place of business located at Contrescarpe 45, Bremen 28195, Germany, was and still is doing business in this jurisdiction directly and/or through an agent and was at all times the owner, operator, manager and/or charterer of the M/V APL Peru.

5. Defendant, HANSEATIC LLOYD SCHIFFAHRT GmbH & CO KG, (hereinafter “Hanseatic”) is a corporation or other business entity with a place of business located at Contrescarpe 45, Bremen 28195, Germany, was and still is doing business in this jurisdiction directly and/or through an agent and was at all times the owner, operator, manager and/or charterer of the M/V APL Peru.

6. Defendant, HYUNDAI MERCHANT MARINE CO. LTD., (hereinafter “Hyundai”) is a corporation or other business entity with a place of business located c/o Hyundai America Shipping Agency, Inc., 65 Challenger Road, 4th Floor, Ridgefield Park, New Jersey 07660, was and still is doing business in this jurisdiction directly and/or through an agent and was at all times acting in the capacity of a common carrier of goods by water.

7. At all material times, the M/V APL PERU was a diesel-powered, ocean-going vessel engaged in the common carriage of cargoes on the high seas and may be within the jurisdiction of this Honorable Court during the pendency of process hereunder.

8. At all material times, defendants were and still are engaged in the business of common carriage of merchandise by water for hire, and owned, operated, managed, chartered, and/or otherwise controlled the M/V APL PERU, as common carriers of merchandise by water for hire.

9. Plaintiff was the consignee, owner and/or assured of the consignment hereinbelow described and brings this action on its own behalf and as agent and/or trustee on behalf of and for the interest of all parties who may be or become interested in the said consignment, as their respective interests may ultimately appear, and Plaintiff is entitled to maintain this action.

10. On and about September 28, 2008, a consignment consisting of 1,512 cartons Paper Printed Books and laden into container HDMU 4556828, then being in good order and condition, was delivered to defendants and the M/V APL PERU at the port of Hong Kong for transportation to New York, New York via Seattle, Washington in consideration of an agreed freight pursuant to Meadows Wye bill of lading no. 809NYC83721 dated September 29, 2008 and pursuant to Hyundai bill of lading no. HKWB9676983 dated September 28, 2008.

11. Thereafter, the aforementioned consignment was loaded aboard the M/V APL PERU, Meadows Wye and Hyundai issued their respective bills of lading and the vessel sailed for its intended ports of destination.

12. On or about October 5, 2008 a fire broke out on board the vessel, causing damage to certain of the cargo laden on board, including plaintiff's cargo.

13. On or about October 17, 2008 the subject container was discharged from the vessel.

14. The damage to the aforementioned consignment did not result from any act or omission on the part of plaintiff or shipper, but to the contrary, was the result in whole or in part, of the negligence and/or fault of defendants and/or the unseaworthiness of the M/V APL PERU.

15. By reason of the foregoing, plaintiff has sustained damages in a total amount of no less than \$405,000.00, as nearly as presently can be determined, no amount of which has been paid, although duly demanded.

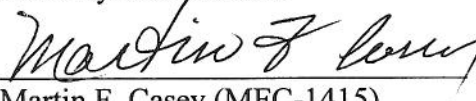
WHEREFORE, Plaintiff prays:

1. That process in due form of law may issue against Defendants citing them to appear and answer all and singular the matters aforesaid;
2. That judgment may be entered in favor of Plaintiff and against Defendants for the amount of Plaintiff's damages, together with interest and costs and the disbursements of this action and
3. That this Court grant to plaintiff such other and further relief as may be just and proper.

Dated: New York, New York
March 19, 2009
115-977

CASEY & BARNETT, LLC
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By:


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